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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,389	02/27/2004	Ian Boddy	71486-0069	1402
20915	7590	05/04/2005		EXAMINER CHERRY, EUNCHA P
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503			ART UNIT 2872	PAPER NUMBER

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/708,389	BODDY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	EUNCHA P. CHERRY	2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 27 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/27/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Objections***

1. Claims 2-16 are objected to because of the following informalities: the phrase "the positional memory module" in claims 2-6 lacks proper antecedent basis, and the objection would be overcome by changing it to "the positional memory element". The phrase "can be" in claims 2 and 5 renders the claims unclear and it is recommended to change it to "is". The phrases "the first selected position" and "the first electrical output signal" in claim 5 lack proper antecedent basis. The phrases "the first output signal" in claim 7 and "the second output signal" in claim 8 lack proper antecedent basis. The phrases "one of the positional memory element" and "the other of the positional memory element" in claim 10 render the claim indefinite because there is only one positional memory element is disclosed in claim 1. It is not clear what these elements are referring to. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-9 and 12-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Bugno et al (US 6,140,933).

Bugno et al discloses a vehicular rearview mirror assembly, comprising: a frame (Fig. 6, 120), a reflective element attached at the frame for providing an occupant of the vehicle with a rearward view (140), a tilt actuator attached at the frame and the reflective element for selectively tilting the reflective element relative to the frame (501), a positional memory element (64) located away from the tilt actuator and interposed between the frame and the reflective element (400 and see column 8, lines 54-58), wherein a position of the reflective element is correlated to an output signal from the positional memory element so that movement of the reflective element from a first position to a second position results in a change in said output signal (see column 8, lines 45-67). The positional memory element can be selectively attached and removed from between the frame and the reflective element without requiring disassembly of the tilt actuator (due to these devices are apart from each other). The positional memory element is mounted to the frame in a chamber separate from the attachment of the tilt actuator to the frame (see Fig. 6). The positional memory element is

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located adjacent to a pivot point located between the reflective element and the frame (see Fig. 6). The reflective element can be returned to the first selected position by actuating the tilt actuator until the positional memory element generates an electrical output signal which is identical to the first electrical output signal (inherent). The positional memory element is electrically energized (see Fig. 7B). The frame is a housing for the mirror (see Fig. 6). The assembly further comprises a sensor (500) and sensor detects the output signal via hall effect or a magnetic resonance effect (see column 8, lines 58-61) or contact or without contact.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bugno et al.

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Bugno et al discloses the claimed invention as set forth above except that a wiper is associated with the positional memory element. However, Bugno et al discloses that the positional memory element of Bugno et al may be include the function of controlling other devices (see column 9, lines 34-54). It would have been obvious to one of ordinary skill in the art to utilize the memory element to include the function of controlling other devices to minimize having more memories devices by integrating into fewer memory elements.

#### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EUNCHA P. CHERRY whose telephone number is 571-272-2310. The examiner can normally be reached on M-F 6:30-4:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DREW DUNN can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EUNCHA P. CHERRY  
Primary Examiner  
Art Unit 2872

5/2/05